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Ms. Donna R. Searcy
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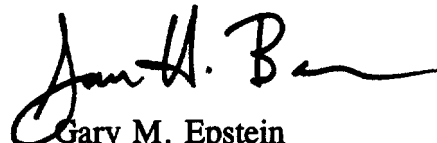
Re: Comments of DirecTV, Inc.; CC Docket No. 93-23, RM-7931

Dear Ms. Searcy:

Enclosed on behalf of DirecTV, Inc. are an original and four copies of DirecTV's Comments in the above-referenced proceeding.

Please call me if you have any questions concerning these comments.

Very truly yours,



Gary M. Epstein
James H. Barker
of LATHAM & WATKINS

Enclosures

cc: Chairman James H. Quello
Commissioner Andrew C. Barrett
Commissioner Sherrie P. Marshall
Commissioner Ervin S. Duggan

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Before the
FEDERAL COMMUNICATIONS COMMISSION

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of)
)
)

Amendment of Section 25.131)
of the Commission's Rules and Regulations)
to Eliminate the Licensing Requirement)
for Certain International Receive-Only)
Earth Stations)
)
)
)
_____)

CC Docket No. 93-23
RM-7931

COMMENTS OF DIRECTV, INC.

DirecTv, Inc. ("DirecTv") hereby submits the following comments in the Commission's Notice of Proposed Rule Making in the above-captioned proceeding.

DirecTv and Hughes Communications Galaxy, Inc. ("HCG") are sister subsidiaries of Hughes Communications, Inc. ("HCI"). HCG is a Commission licensee in both the fixed satellite service and the direct broadcast satellite ("DBS") service. DirecTv is the DBS operating, customer service and programming acquisition arm of the HCI family.

The Commission has proposed to eliminate the licensing requirement for most international receive-only earth stations in the fixed-satellite service.^{1/} Noting its positive

^{1/} See Amendment of Section 25.131 of the Commission's Rules and Regulations to Eliminate the Licensing Requirement for Certain International Receive-Only Earth Stations, Notice of Proposed Rulemaking, CC Docket No. 93-23, RM-7931 (released March 8, 1993) ("NPRM"). The NPRM was generated in response to a petition by Communications Satellite Corporation ("COMSAT") to repeal the licensing requirement for receive-only earth stations operating with satellites of the International Telecommunications Satellite Corporation ("INTELSAT"). Id. at ¶ 1 & n.1; see COMSAT, 7 FCC Rcd 6028 (1992) (granting partial waiver of rules to allow COMSAT's unlicensed operation of standalone, receive-only earth stations used to access encrypted, direct-to-user international services provided over INTELSAT K). Because the Commission deemed COMSAT's request to be consistent with its ongoing effort to eliminate unnecessary regulation, the Commission treated COMSAT's

experience thus far with the deregulation of domestic receive-only earth stations, the apparent absence of legal impediments to the elimination of the international licensing requirement, and "compelling" policy reasons, the Commission has tentatively concluded that such broad deregulation will serve the public interest, and will promote the use of the fixed satellite frequency band without detracting from the band's primary use.^{2/} For the reasons set forth below, DirecTV supports the Commission's proposed action.

I. THE COMMISSION'S PROPOSAL TO DEREGULATE MOST INTERNATIONAL RECEIVE-ONLY EARTH STATIONS IS IN THE PUBLIC INTEREST.

As the Commission suggests in the NPRM, this proceeding is the logical extension of the Commission's policy of deregulating receive-only earth stations in the fixed-satellite service. Two years ago, in the context of a broad revision of its Part 25 rules, the Commission observed that "[s]ince 1979, the Commission has been moving toward deregulation of domestic receive-only earth stations". The Commission continued that process by eliminating its licensing procedures for domestic receive-only earth stations, and established instead a voluntary registration program.^{3/} On the international front, the Commission has already determined in its Equatorial decision that receive-only earth stations used to receive INTELNET I services from the INTELSAT space stations are exempt from

pleading as a petition for rulemaking, and incorporated it into this broader proceeding to deregulate all international receive-only earth stations except for those that are "satellite terminal earth stations" within the meaning of the Communications Satellite Act, 47 U.S.C § 721 (i.e., those stations operationally connected with a domestic common carrier system and used to exchange the carrier's common carrier traffic with the INTELSAT satellite system). See NPRM at ¶ 18.

^{2/} See NPRM at ¶¶ 17-18.

^{3/} Amendment of Part 25 of the Commission's Rules and Regulations to Reduce Alien Carrier Interference Between Fixed-Satellites at Reduced Orbital Spacings and to Revise Application Processing Procedures for Satellite Communications Services, First Report and Order, 6 FCC Rcd 2806, 2807 (1991).

licensing requirements.^{4/} And most recently, the Commission granted a waiver to COMSAT in connection with the instant proceeding to permit the unlicensed operation of standalone receive-only earth stations used to access encrypted, direct-to-user international services provided over the INTELSAT K satellite. The time has come for the Commission to continue the process by eliminating the licensing requirement for international receive-only earth stations along the lines that it has proposed.

There is no legal impediment to such deregulation. It is clear that the same reasoning applied by the Commission to INTELNET I earth stations applies to earth stations accessing INTELSAT, with the only exception being those earth stations that are operationally connected to a domestic common carrier system.^{5/} Specifically, these stations are "standalone," "passive devices" which involve "direct-to-user transmissions."^{6/} They also are not physically or operationally interconnected to the terrestrial communications network, and do not raise concerns with respect to interference and spectrum conservation that licensing was designed to control.^{7/} As in Equatorial, the signals involved are encrypted, so there is a "small likelihood of unauthorized reception," and there is no threat to the technical integrity of the INTELSAT system.^{8/}

Furthermore, DirecTv agrees with the Commission that there are compelling policy reasons to deregulate receive-only earth stations accessing INTELSAT and non-

INTELSAT satellites, as well as those earth stations used to provide transborder services. Elimination of the international licensing requirements will obviously eliminate the Commission's potentially tremendous administrative burden of enforcing them, particularly with respect to transborder services.^{9/} Lifting the international licensing requirements will also significantly increase the amount of foreign programming available provided to U.S. consumers.

Finally, as with domestic receive-only earth stations, to the extent some mechanism is necessary to protect earth stations from terrestrial microwave operations in co-equally shared bands, "[t]his goal -- the protection of the earth station site through coordination -- can still be achieved by substituting a simpler registration program to eliminate issuance of the license and the associated administrative burdens on both applicants and the Commission."^{10/}

II. THE COMMISSION SHOULD PROMOTE A FAVORABLE REGULATORY CLIMATE FOR THE PROVISION OF INTERNATIONAL TRANSBORDER VIDEO SERVICES

Following the launch of the first DBS satellite in December 1993, DirecTv will initiate the first true DBS service in the United States - that is, provision of a multichannel video programming service to home dishes approximately eighteen inches in diameter, via satellites operating in the DBS band at 12/17 GHz. With its full complement

^{9/} For example, millions of Home Satellite Dish ("HSD") systems that have already been shipped into the United States can access easily a total of approximately 37 unencrypted channels from the Canadian Anik system (Anik E-1, E-2, and C-1) and the Mexican-based Morelos system (Morelos 1 & 2). Technically, receive-only earth stations that access such programming from these non-U.S. satellites are required to be licensed under the Commission's rules, see 47 C.F.R § 25.131 (j)(1), although the requirement has not been enforced. It is clear that even if a fraction of such HSD system owners began filing licensing and frequency coordination applications with the Commission, the increased financial and administrative burden would be enormous.

^{10/} Part 25 Rules, Notice of Proposed Rulemaking, 2 FCC Rcd 762, 767 (1987).

of satellites in orbit, DirecTv will provide over a hundred channels of video programming directly to households throughout the United States. Thus, DirecTv expects to enter the video market as a multichannel video programming distributor ("MVPD") using an alternative to cable technology and other locally-based video programming delivery systems.

DirecTv's signal, which will be fully compliant with all international regulation and requirements, will not, of course, stop at the United States border. While DBS dishes are not and never have been subject to any licensing requirement, this proceeding nevertheless has important policy implications for the general overall provision of international transborder video services. By eliminating the international restrictions on TVROs commencing with fixed service satellites, the Commission will take a large step in facilitating the flow of video programming across international borders into the United States.

DirecTv is committed to and welcomes this transborder sharing of information, a policy which will clearly serve the interests of U.S. consumers by enhancing consumer choice and promoting international understanding in a world that is advancing rapidly into an era of unprecedented global communication and interconnectivity.^{11/} However, DirecTv also strongly advocates a reciprocal policy whereby our neighbors to the north and south, particularly Canada and Mexico, recognize the same principles. Because of the inevitable spill-over effect described above, DirecTv is actively exploring the possibilities of providing its DBS service on a transborder basis. One possibility, for example, is the provision of U.S. DBS programming to Canadian consumers and the provision of Canadian programming

^{11/} The USIA, which operates the international television network WORLDNET, recently filed comments

on DirecTv, giving Canadian programmers a way to reach a new, larger U.S. audience.^{12/}

The reciprocal, transborder flow of DBS video programming would be mutually beneficial to consumers in both Canada and the United States. DirecTv urges the Commission to actively work to promote this goal.

In any event, DirecTv endorses the removal of burdensome licensing restrictions on U.S. earth stations. DirecTv also urges the Commission to work with its regulatory counterparts in neighboring countries to ensure that U.S. satellite operators are granted equivalent access to these countries' markets. The current regulatory regimes in Canada and Mexico, for example, may bar the participation of U.S. satellite operators. As it implements policies which encourage the flow of international information and programming into this country, the Commission should work to ensure that similar conditions in neighboring countries exist to facilitate the comparably unrestricted delivery of U.S.-based satellite programming.

III. CONCLUSION

The page 1 headline from The Wall Street Journal just three days ago sums up what this proceeding is all about (May 10, 1993):

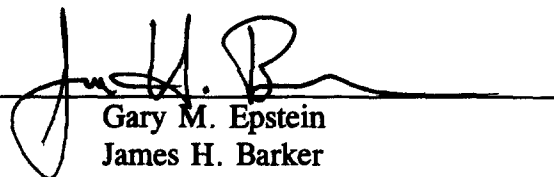
**A Satellite TV System is Quickly Moving
Asia Into the Global Village
Millions Now Watch CNN, U.S. Soaps and
Lifestyles of the Rich and Famous
Governments Lose Control**

requirement for most international receive-only earth stations in the manner described in the NPRM, the Commission will promote the free flow of information between and among countries, and will be acting consistently with its previous policy in this area. The steps outlined in the NPRM are clearly in the public interest, and the Commission therefore should confirm its tentative conclusions.

Respectfully submitted,

DIRECTV, INC.

By:



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Its Attorneys

May 12, 1993